THE HON'BLE SRI JUSTICE C.V. RAMULU

+W.P.No.1350 of 2006

%Dated 07-9-2007

Between:

TTK Healthcare Limited
(formerly TTK Pharma Limited)
a company incorporated under
the Companies Act,1956, having
its Registered Office at 6,Cathedral
Road, Chennai-600 086 rep. by
its Deputy General Manager – HRD,
Mr. C.K. Amarnath … Petitioner

and

The Chairman-cum-Presiding Officer,
Industrial Tribunal-cum-Labour
Court, Anantapur, Anantapur
District and another … Respondents

!Counsel for the petitioner : SHRI C.R. SRIDHARAN

^Counsel for Respondents: GP FOR LABOUR
SHRI A. RAMALINGESWARAO

<GIST:

> HEAD NOTE:

? Cases referred

1. 1980 Supp. SCC 420
2. 2005(9) SCC 331

THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday,7th day of September,2007

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ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Order dated 16-8-2005 passed in I.A.No.340 of 2004 in I.D.No.294 of 1999 on the file of Industrial Tribunal-cum-Labour Court, Anantapur and to quash the same as arbitrary and illegal and consequently to set aside the Order dated 27-9-2004 made in I.A.No.399 of 2004 in I.D.No.294 of 1999.

The only question that arises for consideration, in this Writ Petition, is whether a petition under Order IX Rule 13 of the Civil Procedure Code is maintainable once the Award passed by the Labour Court has been published as required under Section 17 of the Act ?

In this case, admittedly, the Award was published on 3-8-2002 and it attained finality. Thereafter, the application to set aside the *ex parte* Award was filed on 16-7-2004 i.e. after about two years of publication of the Award. Such an application ought not to have been entertained by the Labour Court. The Labour Court is bereft of any power and becomes *functus officio* on expiry of 30 days from the date of publication of the award. The law, in this regard, is well settled in the decision reported in **GRINDLAYS BANK LTD. v. INDUSTRIAL**

TRIBUNAL[1]**,** wherein it was held as under:

> "14. The contention that the Tribunal had become functus officio and, therefore, had no jurisdiction to set aside the ex parte award and that the Central Government alone could set it aside does not commend to us. Sub-section S. 20 of the Act provides that the proceedings before the Tribunal would be deemed to continue till the date on which the award becomes enforceable under S. 17-A. Under S. 17-A of the Act, an award becomes enforceable on the expiry of 30 days from the date of its publication under S. 17. The proceedings with regard to a reference under S. 10 of the Act are, therefore, not deemed to be concluded until the expiry of 30 days from the publication of the award. Till then the Tribunal retains jurisdiction over the dispute referred to it for adjudication and up to that date it has the power to entertain an application in connection with such dispute. That stage is not reached till the award becomes enforceable under S. 17-A….."

In the recent decision in **SANGHAM TAPE CO. v. HANS RAJ**[2], the Supreme Court, following the said decision in **GRINDLAYS BANK** (supra), held as under:

> "6. An industrial adjudication is governed by the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') and the rules framed thereunder. The rules framed under the Act may provide for applicability of the provisions of the Code of Civil Procedure. Once the provisions of the Code of Civil Procedure are made applicable to the industrial adjudication, indisputably the provisions of Order IX, Rule 13 thereof would be attracted. But unlike an ordinary Civil Court, the Industrial Tribunals and the Labour Courts have limited jurisdiction in that behalf. An award made by an industrial Court becomes enforceable under Section 17-A of the Act on the expiry of 30 days from the date of its publication. Once the award becomes enforceable, the Industrial Tribunal and/or Labour Court becomes *functus officio.*
>
> 8. The said decision (*Grindlays Bank case)* is, therefore, an authority for the proposition that while an Industrial Court will have jurisdiction to set aside an ex parte award but having regard to the provision contained in Section 17-A of the Act, an application therefor must be filed before the expiry of 30 days from the publication thereof. Till then Tribunal retains jurisdiction over the dispute referred to it for adjudication and only upto that date, it has the power to entertain an application in connection with such dispute."

In view of the law laid down by the Apex Court in the said judgments, the impugned Orders are liable to be set aside and are

accordingly set aside.

In the result, the Writ Petition is allowed. No order as to costs.

07-9-2007

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[1] 1980 Supp. SCC 420

[2] 2005(9) SCC 331